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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,708	12/31/2003	Jacquelyn R. Simoni	64682-00002USPT	9207
30223	7590	12/15/2004	EXAMINER	
JENKENS & GILCHRIST, P.C. 225 WEST WASHINGTON SUITE 2600 CHICAGO, IL 60606			TSO, LAURA K	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/749,708	Applicant(s) SIMONI, JACQUELYN R.	
	Examiner laura tso	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11,13-15,17-24 and 26 is/are rejected.
- 7) ☒ Claim(s) 3,12,16 and 25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The disclosure should be carefully reviewed to ensure that any and all grammatical, idiomatic, and spelling or other minor errors are corrected.

Claim Objections

Claim 9 is objected to because of the following informalities: Claim 9 should depend on claim 8 so that “band” has proper antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 2, 10, 11, 14, 15 23 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Zoller et al. (6,805,460).

Zoller discloses a collar flashlight for illuminating the area in front of the dog in dark conditions comprising a housing [106] containing an LED [102: column 6, line 54] light source and a battery power supply [160], and a switch [104] wherein the light source is of sufficient brightness to illuminate the area in front of the dog so that the dog owner can observe the illuminated area for control purposes [column 3, lines 39-48]. The housing [106] is attached to the neck of the dog by a band [column 5, lines 31-35] from which the housing is suspended so that the light source is located substantially below the snout of the dog [this is inherent in view of the location which Zoller describes as being lit]. The attachment inherently inhibits swinging [column 5, lines 46-49]. The claimed method is inherent in view of the device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-9, 13, 17-22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zoller et al.

Zoller does not disclose the area of illumination provided by his device. He does disclose "the light should be bright enough to illuminate the path before the animal wearing the dog collar flashlight, but not to bright as to detract from the visual perception of other adjacent objects. Preferably, the light does not destroy night vision" [column 3, lines 26+]. The "light [is] sufficient to perceive and visually detect items on the ground and adjacent the animal...[and]...allows the visual detection of objects illuminated by the light such as cracks in the sidewalk [and] obstacles in the patch of the dog" [column 3, line 39]. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the light illuminate any amount of space which metes with the above limitations including a length of 10 or 20 feet and a width of at least 5 feet to allow for visual detection of surrounding objects.

Zoller does not disclose the LED is a white LED. White LEDs are well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a white LED in the device of Zoller to provide an illumination that easily allows the user to detect and discern the objects illuminated by the device.

Zoller does not disclose that the housing is attached to an elastic band located below the collar of the dog. It would be obvious to one of ordinary skill in the art at the time the invention was made to place the housing on a elastic collar which hangs below the collar of the dog so that the device may be easily placed on and taken off the dog without taking of the dogs collar as it is necessary to keep collars with identification on dogs at all times.

Zoller does not disclose a hair guard extending around a portion of the housing to prevent the hair of the dog from blocking the light. It is the intention of Zoller that his device be used on dogs which normally have hair. In some breeds of dog, the hair can be quite long. Thus, it would be obvious to one of ordinary skill in the art at the time the invention was made to place a hair guard on the device of Zoller which extends around a portion of the housing to prevent the hair of the dog from blocking the light so that the area around the dog will, in fact, be illuminated.

Allowable Subject Matter

Claims 3, 12, 16 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Prior art fails to show or suggest a method or device for illuminating the area in front of the dog in dark conditions comprising a housing containing a light source, a battery power supply, and a switch wherein the light source is of sufficient brightness to illuminate the area in front of the dog so that the dog owner can observe the illuminated area for control purposes wherein the light source comprises three laterally spaced LEDs, the two outboard LEDs orientated to direct light forwardly past opposite sides of

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the dogs snout and a central LED orientated to direct light forwardly and downwardly when attached to the dogs neck.

Prior art fails to show or suggest a method or device for illuminating the area in front of the dog in dark conditions comprising a housing containing a light source, a battery power supply, a switch and a band surrounding the neck of the dog, a connector having an upper end configured to fit over the band and a lower end forming a hinged connection to the housing, wherein the light source is of sufficient brightness to illuminate the area in front of the dog so that the dog owner can observe the illuminated area for control purposes.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Roberts (4,875,145).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to laura tso whose telephone number is 571-272-2385.

The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, sandra o'shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Laura Tso
Primary Examiner
Art Unit 2875